

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

PHILIP TANNENBAUM and  
ADELE TANNENBAUM,

Plaintiffs,

V.

LAPIN & WIGGINTON ASSET  
MANAGEMENT L.L.C.; L&W GP, L.L.C.;  
PREMIER HOLDINGS OF TEXAS, L.P.,  
dba Money Mortgage, Ltd. and Lapin &  
Wigginton, Ltd.; PREMIERE HOLDINGS  
OF TEXAS GP, L.L.C.; DAVID I. LAPIN,  
Individually and as Member/Manager of  
LAPIN & WIGGINTON ASSET  
MANAGEMENT L.L.C.; L&W GP, L.L.C.  
and PREMIERE HOLDINGS OF TEXAS,  
L.L.C.; JEFFREY C. WIGGINTON,  
Individually and as Member/Manager of  
LAPIN & WIGGINTON ASSET  
MANAGEMENT, L.L.C.; L&W GP,  
L.L.C. and PREMIERE HOLDINGS  
OF TEXAS, L.L.C.; TED S. MURRAY,  
Individually and as Member/Manager of  
PREMIERE HOLDINGS OF TEXAS,  
L.L.C.; LAPIN & WIGGINTON  
HOLDINGS, INC.; LAPIN &  
WIGGINTON FUNDING, INC.; and  
MONEY MORTGAGE CORPORATION  
OF AMERICA,

Defendants.

H-01 3800

United States Courts  
Southern District of Texas  
FILED

NOV 02 2001

Michael N. Milby, Clerk

MOTION TO REFER THE CASE TO  
THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION



David I. Lapin, Lapin & Wigginton Asset Management L.L.C., L&W GP LLC, and Lapin & Wigginton Holdings, Inc. ("Defendants") file this Motion to Refer the Case to the United States Bankruptcy Court for the Southern District of Texas, Houston Division, and respectfully show the Court as follows:

## I. SUMMARY

6. Defendants request this Court refer this case to United States Bankruptcy Court for the Southern District of Texas, Houston Division ("Bankruptcy Court") so that the Bankruptcy Court may hear these claims as part of Defendants Premiere Holdings of Texas d/b/a Money Mortgage d/b/a Lapin & Wigginton, Ltd. and Ted S. Murray's ("Debtors") Chapter 11 bankruptcy proceedings.

## II. BACKGROUND

7. Premiere Holdings of Texas, LP d/b/a Money Mortgage, Ltd. d/b/a Lapin & Wigginton Ltd., MMCOA, LP, Lapin & Wigginton Funding, LP, #1 Leisure Lakes Ltd. f/k/a Leisure Lakes L.P., and Ted S. Murray's (collectively "the Debtors") bankruptcy cases were commenced by filing voluntary petitions for relief under Chapter 11, Title 11 of the United States Code, in the United States Bankruptcy Court for the Southern District of Texas, Houston Division on October 2, 2001. Judge Steen certified these cases as complex cases and consolidated all the Debtors to be jointly administered under *In re Premiere Holdings of Texas, LP.*, Case No. 01-40836-H2-11. This Bankruptcy Case is still open and the Bankruptcy Court continues to have original jurisdiction of all related cases under Title 11, and exclusive jurisdiction over all property in the Debtors' estates.

8. On or about October 2, 2001, Plaintiffs Philip Tannenbaum and Adele L. Tannenbaum ("Plaintiffs") filed an action against the Debtors, their principals, subsidiaries, and related entities in



the 61st District Court of Harris County, Texas, Case No. 2001- 50760 (the "State Court Action"). Contemporaneously filed with this Motion, Defendants timely filed their notice of removal, and removed the State Court Action to this Court ("Removed Action").

9. On November 1, 2001, Judge Steen named Robert Ogle as the Chapter 11 bankruptcy trustee ("Trustee"). The Plaintiffs seek, *inter alia*, claims are for the value of their limited partnership interests. The Trustee is responsible for administering the claims of the Plaintiffs against the Debtors and selling or servicing loans comprising the assets of the various limited partnership interests.

10. The Removed Action contains allegations concerning matters that are core proceedings in the Bankruptcy Case under 28 U.S.C. §157(b)(2)(A), (B) and (O). Because the Bankruptcy Case is still open, the proper forum for the resolution of the Removed Action is the United States Bankruptcy Court for the Southern District of Texas, Houston Division, and transfer to the Bankruptcy Court is both necessary and proper pursuant to this District's Standing Order of Reference. Furthermore, since two of the named Defendants in the Removed Action – Premiere Holdings of Texas, LP d/b/a Money Mortgage, Ltd. and d/b/a Lapin & Wigginton, Ltd. and Ted S. Murray – are Debtors in the consolidated complex case, the Removed Action should be referred to Bankruptcy Court to avoid the risk and adverse consequences of inconsistent adjudication and to avoid piecemeal litigation. Moreover, the bankruptcy Trustee is responsible for administering the assets which are the subject of Plaintiffs' claims and is one of the real parties in interest.

### III. RELIEF REQUESTED

11. Defendants seek to have this Court refer the Removed Action to United States Bankruptcy Court for the Southern District of Texas, Houston Division.

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12. Further, "there is a strong presumption of maintaining venue where the bankruptcy case is pending." *In re Continental Airlines*, 133 B.R. 585, 587 (Bankr. D. Del.1991); *See, e.g., Silverman v. U.W. Marx, Inc., (In re Leco Enter.)*, 125 B.R. 385, 392 (S.D.N.Y. 1991)(court transferred venue of adversary proceeding to court where bankruptcy case was pending); *In re Sudbury, Inc.*, 149 B.R. 489, 493 (Bankr. N.D. Ohio 1993)(same).

13. The Honorable Wesley Steen, who presides over Premiere's Chapter 11 bankruptcy filing in the Southern District of Texas, has heard numerous other matters in the Bankruptcy Case. As a result, it is in the interest of judicial economy and efficient administration of the Debtor's bankruptcy estate to have the Removed Action heard in conjunction with the existing bankruptcy proceedings. As noted above, such referral is proper pursuant to the Standing Order of Reference.

WHEREFORE, Defendants respectfully request that the Removed Action be referred from to the United States Bankruptcy Court for the Southern District of Texas, Houston Division, to be heard by the Honorable Wesley Steen and further request that this Court enter such further orders as may be necessary and appropriate, and pray for such other and further relief to which they may be justly entitled.



Dated this 2<sup>nd</sup> day of November, 2001.



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L&W GP LLC, LAPIN & WIGGINTON HOLDINGS, INC.**

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the below-listed parties this 2<sup>nd</sup> day of November, 2001, addressed as follows:

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